

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MAINE**

FRONTIER COMMUNICATIONS  
COMPANY,

Plaintiff,

V.

BARRETT PAVING MATERIALS, INC.,  
et al,

Defendants.

Civil Action No. 07-00113-GZS

**DEFENDANT CENTERPOINT ENERGY RESOURCES CORP.'S  
STATEMENT OF MATERIAL FACTS AS TO WHICH  
THERE IS NO GENUINE ISSUE TO BE TRIED**

Pursuant to Local Rule 56(b), Defendant CenterPoint Energy Resources Corp. states that there is no genuine issue to be tried regarding the following material facts:

1. Bangor Gas Light Company, which changed its name to Bangor Gas Company in 1941 (generically, “Bangor Gas”), owned and operated the Bangor Gas Works from 1852 until 1948. (Ex. A, City of Bangor v. Citizens Communications Company et al, 437 F. Supp. 2d 180, 185 (D. Me. 2006), Findings of Fact & Conclusions of Law (“Findings & Conclusions”) ¶ 31-32; Annual Report of the American Gas & Power Company (1941), BG00184 – BG00240, at BG00188.)
2. According to corporate records, on January 17, 1930 the board of directors of American Gas & Power Company (“AG&P”) authorized the officers of AG&P to prepare and enter into certain management and engineering contracts with each AG&P subsidiary.  
  
(Minutes from the January 17, 1930, Meeting of the Board of Directors of AG&P,

BG03081 – BG03165; see also Ex. B, Management Contract, BG03161-65; Ex. C, Engineering Contract, BG 03156-60.)

3. In 1935, the Public Utilities Management Corporation (“PUMC”) was incorporated in the State of New York. (Ex. F, Annual Report of American Gas & Power Company (1934-35), BG00520 – BG00559, at BG00524.)
4. Bangor Gas Light Company and its sister companies together owned all shares of PUMC. (Ex. D, July 19, 1938, Testimony of F.W. Seymour Before the United States Securities and Exchange Commission, F002649-F002743, at F002704.) AG&P owned no stock in PUMC. Id.
5. AG&P assigned all “management contracts” to PUMC in 1935, and all of the AG&P subsidiaries, including Bangor Gas Light Company, agreed to the assignment. (Ex. F, Annual Report of American Gas & Power Company (1934-35), BG00520 – BG00559, at BG00524.)
6. During its operational history, Bangor Gas was regulated by the Maine Public Utilities Commission. From at least 1915 through 1944, Bangor Gas filed annual reports with the Public Utilities Commission. These annual reports contain detailed financial and accounting information regarding the operations of Bangor Gas. (Annual Reports to the Maine Public Utilities Commission, BGRG0006802 – BGRG0007344; BGRG0007425 – BGRG0007819; BGRG0005947 – BGRG0006076) (See, e.g., Ex. K, Annual Report to the Maine Public Utilities Commission (1920), BGRG0006986 – BGRG0007019; Ex. H, Annual Report to the Maine Public Utilities Commission (1932), BGRG0007426 – BGRG0007463; Ex. I, Annual Report to the Maine Public Utilities Commission (1935),

BGRG0007539 – BGRG0007576; Ex. L, Annual Report to the Maine Public Utilities Commission (1938), BGRG0007651 - BGRG0007690; Ex. M, Annual Report to the Maine Public Utilities Commission (1941), BGRG0007779 – BGRG0007819.)<sup>1</sup>

7. AG&P submitted an audited Annual Report to its stockholders each year from 1931 to 1944. These Annual Reports contained general information about AG&P and each of its subsidiaries and financial information regarding AG&P and its subsidiaries. In each of these Annual Reports, there was a separate accounting entry for each subsidiary, including Bangor Gas. (Annual Reports of the American Gas & Power Company, BG00600 – BG00613 (1931); Ex. E, BG00583 – BG00599 (1932); BG00560 – BG00582 (1933); Ex. F, BG00520 – BG00559 (1934-1935); BG00475 – BG00519 (1936); BG00420 – BG00474 (1937); BG00358 – BG00419 (1938); BG00301 – BG00357 (1939); Ex. G, BG00241 – BG00300 (1940); BG00184 – BG00240 (1941); BG00130 – BG00183 (1942); BG00084 – BG00129 (1943); BG00069 – BG00083 (1944).)<sup>2</sup>
8. Throughout the course of its corporate relationship with AG&P, Bangor Gas and AG&P had some directors and/or officers that served both companies, but the overlap in leadership was never complete. (Compare id.; 1928 Corporate Minutes of the American Gas & Power Company, BG02681 – BG02689; and Annual Reports of the American Commonwealths Power Corporation, BG00690 (1929); BG00657 (1930) with Annual Reports to the Maine Public Utilities Commission, BGRG0007270 – BGRG0007306

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<sup>1</sup> Exs. H, I, K, L, and M, attached hereto, contain several representative examples of Bangor Gas's Annual Reports to the Maine Public Utilities Commission. The entire collection comprises over 1,000 pages. A disk containing the full set of these documents will be sent to the Court and the parties under separate cover.

<sup>2</sup> Exs. E, F, and G, attached hereto, contain several representative examples of AG&P's Annual Report to shareholders. The entire collection comprises over 1,000 pages. A disk containing the full set of these documents will be sent to the Court and the parties under separate cover.

(1928); BGRG0007307 – BGRG0007344 (1929); BGRG0007348 – BGRG0007386 (1930); BGRG0007387 – BGRG0007425 (1931); Ex. H, BGRG0007426 – BGRG0007463 (1932); BGRG0007464 – BGRG0007500 (1933); BGRG0007501 – BGRG0007538 (1934); Ex. I, BGRG0007539 – BGRG0007576 (1935); and Excerpts from Annual Reports of the American Gas & Power Company, BG00477 (1936); BG00453 (1937); BG00398 (1938); BG00334 (1939); Ex. G, at BG00277 (1940); BG00220 (1941); BG00163 (1942); BG00115 (1943).)<sup>3</sup>

9. Throughout the course of its corporate relationship with AG&P, Bangor Gas maintained a local general manager who was not an employee, officer, or director of AG&P. Id.<sup>4</sup>
10. In 1944, AG&P severed all corporate ties with Bangor Gas Company by selling all shares of Bangor Gas. (Annual Report of American Gas and Power Company (1944), at BG00070.)
11. In 1948, Bangor Gas Company merged with Citizens Utility Company (“Citizens”). Citizens became the sole owner of the Bangor Gas Works after the merger. (Ex. A, Findings & Conclusions ¶ 8.)
12. After its merger with Bangor Gas Company, Citizens continued to operate the Bangor Gas Works from 1948 until 1963, at which time it sold the Gas Works to a third party. (Ex. A, Findings & Conclusions ¶ 33.)

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<sup>3</sup> Exs. E, F, G, H, and I, attached hereto, contain several representative documents showing the lack of complete director and officer overlap. The entire collection of documents comprises over 1,000 pages. A disk containing the full set of these documents will be sent to the Court and the parties under separate cover.

<sup>4</sup> Exs. E, F, G, H, and I, attached hereto, contain several representative documents showing the presence of an independent general manager at Bangor Gas. The entire collection of documents comprises over 1,000 pages. A disk containing the full set of these documents will be sent to the Court and the parties under separate cover.

Dated: April 27, 2009

Respectfully submitted,

/s/ John H. Grady

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on April 27, 2009 a copy of the DEFENDANT CENTERPOINT ENERGY RESOURCES CORP.'S STATEMENT OF MATERIAL FACTS AS TO WHICH THERE IS NO GENUINE ISSUE TO BE TRIED was electronically filed with the Clerk of Court using the CM/ECF system which will send notification of such filing to the registered participants as identified on the Notice of Electronic Filing (NEF).

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